

*Original filed 3/21/06

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL BROWN,

Plaintiff,

vs.

M. MC GARVEY, et al.,

Defendants.

No. C 04-0347 JF (PR)

ORDER DENYING
PLAINTIFF'S MOTION FOR
EXTENSION OF TIME AS
MOOT; DENYING
PLAINTIFF'S MOTION FOR
SANCTIONS

(Docket Nos. 16, 19)

Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against San Quentin State Prison officials. On June 1, 2005, the Court reviewed the amended complaint pursuant to 28 U.S.C. § 1915A(a) and dismissed one of Plaintiff's claims and ordered service of the amended complaint as to Plaintiff's remaining claim. The Court denied Plaintiff's motion for appointment of counsel without prejudice. Plaintiff has filed a motion for extension of time to file an appeal and a motion for sanctions. The Court will DENY Plaintiff's motion for extension of time (docket no. 16) as moot and DENY Plaintiff's motion for sanctions (docket no. 19).

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DISCUSSION**A. Motion for Extension of Time**

____ Plaintiff filed a motion for extension of time requesting that the Court extend time for him to file a notice of appeal based on the Court's denial of appointment of counsel and partial dismissal order. Plaintiff requests this extension due to numerous prison lockdowns which limit his access to the law library. However, upon review of the Court's docket, Plaintiff filed a notice of appeal on June 30, 2005, which was dismissed by the Court of Appeals for lack of jurisdiction on October 14, 2005. Accordingly, Plaintiff's motion for an extension of time (docket no. 16) is DENIED as moot.

B. Plaintiff's Motion for Sanctions

____ On August 31, 2005, Plaintiff filed a motion for sanctions against California Attorney General Lockyer, his subordinates and employees for failure to respond or answer the Court's June 1, 2005 order of service. Plaintiff asks the Court to impose monetary sanctions for Defendants delay in filing a response. Upon review of the docket, the summons were executed and returned by the Attorney General's Office on July 25, 2005. On October 12, 2005, Defendants' counsel filed a motion for an extension of time to file a dispositive motion or indicate that the case could not be resolved by such motion. Defendants' counsel filed a motion for summary judgment on December 12, 2005. While Defendants response was untimely, the Court concludes that such conduct does not warrant the imposition of monetary sanctions. Monetary sanctions may be imposed pursuant to 28 U.S.C. § 1927, which is aimed at penalizing conduct that unreasonably and vexatiously multiplies proceedings, or the court's inherent power. Fink v. Gomez, 239 F.3d 989, 991 (9th Cir. 2001). Accordingly, Plaintiff's motion for sanctions (docket no. 19) is DENIED.

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CONCLUSION

Plaintiff's motion for extension of time (docket no. 16) is DENIED as moot.

Plaintiff's motion for sanctions (docket no. 19) is DENIED.

IT IS SO ORDERED.

DATED: 3/20/06



JEREMY FOGEL
United States District Judge

1 This is to certify that on _____, a copy of this ruling
2 was mailed to the following:

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